IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE SEVENTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

and
HON'BLE SRI JUSTICE C.V.RAMULU

WRIT APPEAL NO : 1180 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 22/07/2003 in WP NO : 2790 OF 2003 on the file of the High Court.)

Between:

B.Vishumurthy S/o Late B.Kistaiah,
Goshamahal, Hyderabad

..... APPELLANT

AND

1 The District Collector, R.R.District, Kharitabad, Hyderabad.
2 The Commissioner, Town Municipality Kukutpally, Moosapet, R.R.District

.....RESPONDENTS

Counsel for the Appellant : MR.K.ANUP KUMAR

Counsel for the Respondent No.1 : GP FOR LAND ACQUISITION.

Counsel for the respondent No.2: Mr. R. Thimma Reddy, S.C. Municipalities.

The Court made the following :

ORAL JUDGMENT:

(Per Hon'ble The Chief Justice)

....

1 . On 13.02.2003 appellant – writ petitioner filed writ petition seeking direction against the respondents to initiate land acquisition proceedings and pay compensation to him in respect of the land acquired for laying roads admeasuring 2700 square yards forming part of Sy.No.1092/B situated at Kukatpally village, R.R. District.

2. Petitioner – appellant alleged that he is owner and in possession of land admeasuring Ac.4-00 forming part of Sy.No.1092/B situated at Kukatpally. To the south of the said property, a colony was formed for which separate road was laid so as to reach highway. Petitioner claims that this land was allotted to him in partition between his family members, and the respondents with mala fide intention proposed to lay public road through his land without following the due process of law. He made several representations to the respondents to stop the proposed laying of road, which were not responded to. Steps were not taken by respondents to pay compensation to him with respect to laying of the road through his property to the extent of 2700 square yards. Then he filed W.P.No.20056 of 1998 which was disposed of on 27.8.1998 with direction to the respondents to initiate land acquisition proceedings with regard to the extent of land intended for laying the road and pay suitable compensation. Petitioner thus alleged that no action has been

taken by the respondents to compensate him in having deprived him of the property to the extent of 2700 square yards.

3. Respondents opposed the petition stating that petitioner had not come to the court with clean hands and had suppressed the material facts. It was stated that B. Suresh Kumar Goud, G.P.A., holder of petitioner, had filed an undertaking to the effect that petitioner would widen the road to the extent of 9 meters based on the building plan sanctioned on 11.01.2002. Road is for the convenience and use of the residential apartment in premises No.21-35 covered by Sy.No.1092/B and in view of the undertaking, petitioner is not entitled to any compensation. It was also pointed out that petitioner had sold Ac.3-00 of land in Sy.No.1092/B and the balance Ac.1-00 was distributed among his 7 major children and his children have already raised construction in the said land. The petitioner divided the land among 7 children without any approval from the authority. B. Suresh Kumar Goud, G.P.A., holder of petitioner, applied for permission on 08.07.1999 to H.U.D.A., for construction of residential complex in premises No.21-35 of Sy.No.1092/B over an area of 1004.8 square meters abutting to 9 meters road with the following boundaries:

North -- 9 Mts. Wide road;

South -- Neighbour's land;

East -- 9 Mts. Wife road; and

West -- Neighbour's land.

It is stated that HUDA approved the plans technically and sent it to Kukatpally Municipality for according sanction of building permission. Based on the undertaking of B. Suresh Kumar Goud, plans were sanctioned and as per the undertaking the existing 9 meters road has to be widened on the eastern side of the proposed construction. In that view of the matter, the petitioner is not entitled to claim any compensation. The road has been laid for the benefit of apartment occupiers.

4 . In view of the stand taken by 2nd respondent, learned single Judge dismissed the writ petition holding that petitioner is not entitled to claim any compensation.

5. Challenge by the appellant to the order of the learned single Judge is on the ground that learned single Judge did not correctly appreciate about the undertaking given by B. Suresh Kumar Goud. It is stated that it was with respect to some other land and not the land for which the petitioner is claiming compensation. Needles to add that after 2nd respondent filing his affidavit in reply, no effort was made by the petitioner to controvert the same. Learned counsel for the petitioner says that he asked for an opportunity to file affidavit in reply, which was not allowed. Record nowhere suggests that petitioner did ask for an opportunity. Even in appeal before us, this question has not been raised at all that he wanted an opportunity to file reply.

6. In view of the affidavit in reply of 2nd respondent, it is not a case in which learned single Judge could have issued any direction as prayed for by the petitioner, more particularly in view of the undertaking given by the G.P.A., holder which was not disclosed by the petitioner in the writ petition.

7. Writ appeal fails and is dismissed. No costs.

DEVINDER GUPTA. C.J.,

C.V. RAMULU. J.,

Dated: 17.08.2004.

VRK.

To

1 The District Collector, R.R.District, Kharitabad, Hyderabad.
2 The Commissioner, Town Municipality Kukutpally, Moosapet, R.R.District

3. Two CCs to G.P. for Land Acquisition, High Court Buildings, Hyderabad (OUT).

4. Two CD copies.

HON'BLE SRI DEVINDER GUPTA,

CHIEF JUSTICE

AND

HON'BLE SRI JUSTICE C.V. RAMULU.

W.A.NO. 1180 OF 2004.

(Judgment of the Bench delivered by

Hon'ble The Chief Justice)

Dt: 17.08.2004.